In the High Court of Judicature at Madras

Dated:20.06.2006

Coram:

The Hon'ble Mr. Justice P. SATHASIVAM
and
The Hon'ble Mr. Justice V. DHANAPALAN

Habeas Corpus Petition No.554 of 2006

Tmt. J. Sumitha .. Petitioner

vs.

1. The Secretary to the Government
   Food Co.operation and Consumer
   Protection Department
   Chennai 600 009.

2. The District Collector and
   District Magistrate
   Coimbatore District, Coimbatore.

3. The Secretary to the Government
   Food and Consumer Protection
   Department, Government of India
   New Delhi. .. Respondents

Petition filed under Article 226 of the Constitution of India praying for issuance of writ of habeas corpus as stated therein.

For petitioner : Mr. S. Kasirajan

For respondents 1 and 2 : Mr. M. Babu Muthu Meeran
Addl. Public Prosecutor

Mr.P. Kumaresan, ACGSC forR.3

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ORDER

(Order of the Court was made by P. SATHASIVAM,J.,)

The petitioner by name Sumitha, challenges the impugned order of detention dated 08.02.2006, detaining her husband by name Janarthanan, as "Black-marketer" under Section 3 (2)(b) read with 3(1) of the Prevention of Black

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Marketing and Maintenance of Supplies of Essential Commodities Act, 1980.

2. Heard the learned counsel for the petitioner as well as learned Additional Public Prosecutor for respondents 1 and 2 and Mr. P. Kumaresan, learned Additional Central Government standing counsel for R.3.

3. The learned counsel for the petitioner though admitted that on earlier occasion this Court after considering all the contentions, dismissed first HCP.No.236 of 2006 on 04.04.2006, contended that the point relating to imminent possibility of coming out on bail and detaining the detenu under Act 14 of 1982 had not been considered, hence according to him the present petition is maintainable.

4. Before considering the said contention, it is our duty to point out that HCP.No.236 of 2006, which was also filed by the very same petitioner / wife of the detenu, raised several contentions, including the fact that there is no material for arriving a conclusion that if the detenu comes out on bail he will indulge in further activities which will be detrimental to the supply of essential commodities. A perusal of the earlier order dated 04.04.2006 shows that, Mr. B. Kumar learned senior counsel appearing for the petitioner raised several contentions both factual and legal, attacking the detention order. After considering all those contentions, and after verifying the relevant materials from the files produced by the then learned Government Advocate, by a considered order, the Division Bench dismissed the writ petition. It is also not in dispute that against the order of the Division Bench dated 04.04.2006, the petitioner preferred SLP.(Cri.) No.2407 of 2006 before the Supreme Court, which was also dismissed on 15.05.2006. In spite of the earlier Division Bench order and the order of the Hon'ble Supreme Court approving the same, we heard the learned counsel for the petitioner.

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5. By drawing our attention to the details furnished in paragraphs 5 and 6 of the grounds of detention, learned counsel for the petitioner contended that there is no material to arrive a conclusion that if the detenu comes out on bail he will indulge in prejudicial activities in future, which will be prejudicial to the maintenance of supplies of essential commodities to the community. Before meeting the said contention it is also useful to refer that in the earlier petition, learned

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senior counsel who appeared for the petitioner raised the same contention, of course in a different form (vide para 3.1) of the earlier order dated 04.04.2006. Though the learned counsel for the petitioner submitted that there is no material, a perusal of the grounds of detention amply show that prior to the ground case that took place on 03.02.2006, the detenu had involved in similar activities and case was registered under Section 4(1) 19(1) of TNETA (RD) Order, 1984 and 6(i)(iii)(c) of RDCS Order, 1982 r/w 7(i)(a)(ii) of EC Act. The said case was registered on 19.01.2005 against the detenu and it further shows that the same was ended in confiscation of 9.760 tones of rice and lorry. In so far as the ground case that took place on 03.02.2006, based on which the detenu was detained as Black-marketer, paragraphs 3 and 4 of the grounds of detention narrate the entire incident, the role played by the detenu and smuggling of PDS rice meant for public distribution system. In view of narration of all those details in paragraphs 3 and 4 of the grounds of detention, we are of the view that there is no need to refer the same once again in the present order. In the light of the activities and past conduct of the detenu, as rightly observed by the detaining authority, if the detenu comes out on bail he will indulge in prejudicial activities in future also, which may be hindrance to the maintenance of supplies of essential commodity to the community at large. In such circumstances, it cannot be claimed that the detaining authority was not possessed adequate materials. Further, the Courts have held that it is the detaining authority who has to satisfy himself with the available materials and those materials are sufficient or not is the concern of the Court.

Under these circumstances and in view of the abundant materials which were considered by the detaining authority before passing the order of detention as well as the earlier order passed by this Court on 04.04.2006, we do not find any merit in the contention raised in this petition; accordingly, the same is dismissed.

Kh

Sd/
Asst.Registrar

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Sub Asst.Registrar

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To

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2. The District Collector and
   District Magistrate
   Coimbatore District, Coimbatore.

3. The Secretary to the Government
   Food and Consumer Protection
   Department, Government of India
   New Delhi.

4. The Public Prosecutor,
High Court, Madras

+ one cc to Mr. S. Kasirajan, Advocate sr no. 26118

PV(CO)
NM(27.06.2006)

H.C.P.No.554 of 2006

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